

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-2971

Anthony B. Cook,

Appellant,

v.

Steve Long, Asst. Director, Division
Adult Institutions; Chuck Dwyer,
Superintendent of SECC; Johnny
Williams, Functional Unit Manager;
Unknown Roach, C.O.I.; Unknown
Holmes, C.O.I.; Unknown Williams,
C.O.I.,

Appellees.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: October 19, 2007
Filed: November 5, 2007

Before BYE, RILEY, and MELLOY, Circuit Judges.

PER CURIAM.

Missouri inmate Anthony B. Cook appeals the district court's dismissal of his 42 U.S.C. § 1983 action for failure to exhaust his administrative remedies. We reverse and remand for further proceedings.

Cook filed this action naming six defendants; service was effected on three defendants who sought dismissal of the complaint based on Cook's failure to state a

claim and to exhaust his administrative remedies. After granting Cook additional time to respond, the district court dismissed the entire suit because Cook had not administratively exhausted all of his claims.

Under 42 U.S.C. 1997e(a), a prisoner must exhaust all available administrative remedies before a civil action can be brought with respect to prison conditions. See Graves v. Norris, 218 F.3d 884, 885 (8th Cir. 2000) (per curiam). The Supreme Court recently clarified that administrative exhaustion is an affirmative defense that defendants have the burden to plead and prove, see Jones v. Bock, 127 S. Ct. 910, 919-22 (2007), and that a lawsuit should not be dismissed in its entirety because some claims are unexhausted, see id. at 923-26.

We therefore vacate the district court's order and remand for the court to dismiss only those claims that are unexhausted.

Accordingly, we reverse and remand for further proceedings consistent with this opinion. Cook's pending motions are denied.
